

EXHIBIT F

DECLARATION OF CHRISTOPHER K. WU

Exhibit B

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February 26, 2013

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Dear Mike:

The liability actually booked for the Company's post-retirement pension plans comes to \$1.076 billion as of January 1, 2012.¹ GAAP estimates of benefit-related liabilities, however, may not accurately reflect actual claims for post-retirement benefits. Post-retirement liability, for GAAP purposes, is the currently estimated stream of all expected future benefit payments discounted to present value using conservative actuarial assumptions. Such discounting is used because the obligations will be settled many years in the future after the employee providing the service has retired.

We believe that the discount rates used to calculate post-retirement benefit claims over the next decade are too low.² The discount rate will likely rise in the future as interest rates rise, which is to be expected once the country is out of the current economic downturn. When discount rates do rise, the present value of future post-retirement benefit obligations will decrease by definition. While a full projection of future post-retirement benefit obligations would require a complex actuarial analysis (which is not possible given the data we have received from the Debtors to date), it is far from certain that the magnitude of post-retirement benefit obligations (only \$87.1 million of which are—from the Debtors' own documents—expected to come due in 2013) will ultimately have the future effect on actual claims against the Debtors' estates that the \$1.076 billion number suggests.

Indeed, it is apparent to us that the vast majority of post-retirement benefit obligations will occur from 2014 onwards, likely becoming due many years after the Debtors have restructured and have exited chapter 11. Furthermore, it goes without saying that typically in bankruptcy cases legacy costs will likely be restructured. In fact, the mineworkers union has indirectly acknowledged this in a "Question and Answer" memorandum to its constituents, noting that "Patriot could ask the court for modifications to those health benefits."³ That same communication also indicates that

¹ As background for this analysis, we considered, among other things, certain health-care related valuation actuarial reports provided by Patriot Coal. (Bates Nos. PCX-EC-68-304.)

² Low discount rates imply a higher present value (and therefore book value), and higher discount rates imply a lower present (book) value of post-retirement benefit obligations.

³ United Mine Workers of America, *Most Asked Questions for Patriot UMWA Active and Retired Members* p. 2, attached as Exhibit 1.

Arch and Peabody are ultimately responsible for the lion's share of post-retiree health benefits and that the mineworkers union would "use every legal avenue possible to make Peabody Energy and Arch Coal fulfill their lifetime obligation to retirees."⁴

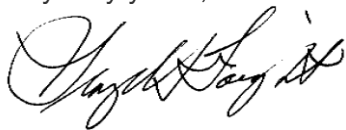
The Debtors have also stressed the need to restructure their legacy liabilities (including post-retirement benefit obligations). The Debtors are currently in the process of negotiating how to restructure their labor-related legacy costs, certain options have historically included (in similar chapter 11 cases, including Chemtura Corporation and Westmoreland Coal Company):

- Requiring Peabody and Arch, which are jointly and severally liable for the benefits Patriot Coal is paying to Arch and Peabody retirees under the Coal Act, to pay their fair share of post-retirement benefit obligations.⁵ Indeed, it appears that over 90% of retirees whose healthcare is currently being administered by Patriot Coal never worked a day for Patriot Coal: they retired while employed by subsidiaries of Peabody and Arch, but Patriot Coal assumed their obligations to retirees in the 2007 spinoff.
- Reducing the Debtors' estimated \$2 billion (discounted to present value) of going-forward costs of retirement benefits by considering the impact the Patient Protection and Affordable Care Act will have on reducing healthcare costs generally and resulting in a lower expected healthcare inflation rate than the present value calculation anticipates to account for reduced inflation of healthcare costs.
- Reduction in the accrual and payment of post-retirement medical and death benefits for certain classes of salaried and non-union hourly employees under age 55 and supplemental insurance to retirees in place of current plan with the same or similar benefits.

Further, the Debtors may have other post-employment benefits that have not vested, which are retiree commitments that I understand may not be legally enforced. It is far from clear that any of the aforementioned cost restructuring will result in a claim against Patriot Coal.

In sum, it is our opinion the Debtors' actual exposure to legacy-cost liabilities are overstated and are likely substantially lower than the value at which they are currently booked.

Very truly yours,



Lloyd S. Foight

cc: Peter Goodman, Esq.
Enclosures

⁴ United Mine Workers of America, *Most Asked Questions for Patriot UMWA Active and Retired Members* p. 2, attached as Exhibit 1.

⁵ See United Mine Workers of America, *Patriot Coal Fact Sheet* p. 5, attached as Exhibit 2.

EXHIBIT 1

MOST ASKED QUESTIONS FOR PATRIOT UMWA ACTIVE AND RETIRED MEMBERS

Q. What is Chapter 11 bankruptcy?

A. A Chapter 11 bankruptcy is when a company seeks protection through a federal bankruptcy court when the company believes it cannot survive with its existing debt. The company seeks the court's approval to reduce its debt. During the bankruptcy proceeding, the company continues to operate under the bankruptcy court's supervision, while it tries to restructure. During restructuring, companies can cancel coal sales contracts and other legally binding agreements with permission from the court.

Q. When will we know when Patriot is going to make it out of this bankruptcy?

A. The average Chapter 11 bankruptcy process can last anywhere from 9-24 months.

Q. Can the bankruptcy process change the collective bargaining agreement?

A. Yes, a company in bankruptcy can seek to reject the collective bargaining agreement and negotiate or, upon impasse, impose – with the courts approval – new terms and conditions of employment.

Q. What is the UMWA doing to fix the problems facing Patriot's active and retired employees?

A. The UMWA has been involved in every aspect since Patriot filed its Chapter 11 bankruptcy in July, including winning a position on the unsecured creditors' committee. This puts us in a more favorable position to provide input to the bankruptcy judge. The UMWA will fight hard to make sure that Patriot honors its legal and moral commitments.

Q. How will this affect my pension?

A. The UMWA strongly believes that the court does not have the right to terminate pension benefits earned working for Peabody, Arch and Patriot. While unlikely, Patriot could attempt to ask the court for contribution modifications to the Plan. If the court would attempt to approve any changes to the 1974 Pension Plan for Patriot's active workers, the UMWA will fight to ensure your benefits are protected.

Unlike single employer pension plans that can be terminated in bankruptcies, neither Patriot nor the bankruptcy court could either change or terminate the multiemployer UMWA 1974 Pension Plan. In addition, all the signatory operators guaranteed the funding of the 1974 Pension Plan during the term of the 2011 NBCWA agreement.

Q. Could this bankruptcy affect the 1974 Pension Plan's ability to pay pension benefits?

A. Possibly -- Patriot is the second largest contributor to the 1974 Pension Plan. If the court permits Patriot to stop contributing to the Plan it would further damage that Plan's financial condition, which has already been weakened by the 2008 recession and market crash that affected every pension plan in the country.

Q. Will we continue to get our retiree health care?

A. Currently Patriot is required to continue to pay for retiree health care. The UMWA does not believe that the court has the right to terminate retiree health care benefits. However, Patriot could attempt to ask the court for modifications to those health benefits. We have no idea what the court will ultimately decide. If the court would attempt to approve any changes to our retiree's health care, the UMWA will fight to ensure your benefits are protected. In addition, we will use every legal avenue possible to make Peabody Energy and Arch Coal fulfill their lifetime obligation to their retirees.

Q. I never worked for Patriot Coal, I worked for Peabody or Arch so why does this affect me?

A. Over 90% of the retirees Patriot provides benefits for today never worked a single day for Patriot Coal. The retirees worked for subsidiaries of Peabody Energy and Arch Coal such as:

Affinity Mining Co	Colony Bay Coal Co	Deep Ford Mining Co	Eastern Associated Coal
Gibraltar Coal Co	Peabody Coal Company- Renamed Heritage Coal Co	Highland Mining	Martinka Coal Company
Nueast Mining Corp	Mountain View Coal Co	Pine Ridge Coal Co	Rivers Edge Mining
Simco Peabody Co	Sterling Smokeless Coal Co	Squaw Creek Coal Co	Yankeetown Dock Corp
Amherst Coal Co	Apogee Coal Co	Arch of Alabama	Arch of Illinois
Arch of Kentucky	Arch of West Virginia	Arch on the Green	Badgett Brown
Carter Coal Corp	Cutler Mining Co	Dakota, LLC	Hobet Mining
Landmark/Delta Terminals	King Knob Coal Co	Old Hickory Coal	Pipestone Creek Mining
Robin Resources, Inc	Sharples Coal Corp	Southwestern Illinois Coal Corp	Sugar Creek Mining
Zapata Coal Corp			

Peabody's Board of Directors voted to spin-off almost all of its union operations into Patriot Coal in 2007. When Peabody executed the spin-off it included the retirees as part of the new company. In 2005 Arch Coal spun-off its union operations, including its retiree health care obligations, to Magnum Coal. Peabody was in discussions with Magnum about purchasing these operations even before the Patriot spin-off occurred. However, shortly after its spin-off, Patriot purchased Magnum and its retiree obligations as well. We believe that these were fraudulent transactions. The UMWA intends to enforce the rights of Patriot's retirees by all means necessary.

Q. At the time of the spin-off, October 31, 2007, active miners were told that there was no reason to retire before the spin-off. Now there are rumors that if we had, we would have been able to get our health benefits from Peabody if Patriot fails.

A. *The rumor is false.* Peabody entered into an unpublicized agreement with Patriot to retain responsibility for certain Midwest pensioners who were retired on or before 12/31/06. That date is almost a full year before the spin-off was actually announced. If a miner had retired when Peabody announced it was looking into a spin-off, it would have been too late to meet the 12/31/06 date.

Q. Will our health care be picked up by the Orphan Fund (1993 Benefit Plan) if Patriot goes under?

A. Only the Trustees of the 1993 Benefit Plan can make this determination, based upon the rules of the Plan. *However,* Patriot would have to be determined to be completely out of business with no assets available to pay for retiree health care for the 1993 Benefit Plan to pick them up.

Q. Can active workers be adversely affected if the court would allow Patriot to stop making contributions into the 1974 Pension Plan?

A. The UMWA strongly believes that the court does not have the authority to take away promised pension benefits that have already been earned. **Your right to *future* pension credit may be a subject of future litigation if the court determines Patriot is allowed to stop contributing to the 1974 Pension Plan. Note that the UMWA will have advance notice before this could happen.**

**PLEASE CONTACT THE UMWA'S INTERNATIONAL OFFICE AT 703-291-2400
ON OR AFTER SEPTEMBER 4, 2012 IF YOU HAVE FURTHER QUESTIONS.**

EXHIBIT 2

Patriot Coal Fact Sheet

Patriot Coal filed for Chapter 11 bankruptcy in the Southern District of New York on July 9, 2012. Patriot created two subsidiaries in New York several weeks before the filing solely for the purposes of creating venue in New York. The United Mine Workers of America (UMWA) filed a motion with the Bankruptcy Court to change the venue to the Southern District of West Virginia, arguing that most of Patriot's employees, retirees and other creditors were in or near West Virginia and that it was the most appropriate venue. Other parties who joined the UMWA in seeking a change of venue were the United States Bankruptcy Trustee, the Attorney General of West Virginia, the Commonwealth of Kentucky Energy and Environmental Cabinet, a group of surety companies holding Patriot environmental bonds and American Electric Power.

Patriot Background

Patriot Coal was spun off from Peabody Energy in 2007. Patriot comprised all of Peabody's UMWA-signatory operations in the eastern United States. In 2008, Patriot acquired Magnum Coal, which had been spun off from Arch Coal in 2005. Similar to the Peabody-Patriot transaction, Arch spun off all its UMWA-represented operations into Magnum.

Patriot Operations

Patriot mines coal only in West Virginia and Kentucky. It has about 4,000 employees. The UMWA represents the majority of the hourly workers. Of the approximate 2,000 UMWA miners, about 1,500 work in West Virginia and about 500 in western Kentucky. Table 1 shows information on Patriot's operations in 2011.

Table 1

Mine Complex	State	Coal Type	Union	Workers	Million Tons Sold
Big Mountain	WV	Steam	UMWA	243	1.879
Blue Creek	WV	Steam	None	100	0.848
Campbell's Creek	WV	Steam	None	148	0.680
Corridor G	WV	Steam	UMWA	457	3.656
Kanawha Eagle	WV	Met/Steam	None	258	1.445
Logan County	WV	Steam	UMWA	259	2.693
Paint Creek	WV	Met/Steam	None	161	1.181
Panther	WV	Met	None	338	1.845
Rock Lick	WV	Met	UMWA	397	1.294
Wells	WV	Met	UMWA	320	2.840

¹ A hearing was held on the change of venue motion on September 11-12, 2012 and final briefs are due October 5, 2012.

Federal	WV	Steam	UMWA	560	3,973
Blue Grass	KY	Steam	None	276	2,456
Dodge Hill	KY	Steam	None	176	0,831
Highland	KY	Steam	UMWA	499	3,978
Company Total				4,290	29,599

Patriot Retirees

Patriot provides lifetime retiree health benefits to approximately 10,600 retired miners and surviving spouses. Including dependents, Patriot provides benefits to more than 22,000 covered individuals. Patriot estimates that the present value of its retiree health liability is about \$1.47 billion.

Table 2 shows the retirees who came from Peabody subsidiaries. The column labeled Coal Act represents retirees who are covered by the Coal Act while the column labeled NBCWA shows retirees whose health benefits flow from the National Bituminous Coal Wage Agreement.

Table 2

Former Peabody Companies	Coal Act	NBCWA	Total
AFFINITY MINING CO	19	0	19
COLONY BAY COAL COMPANY	20	68	88
CONTINENTAL AUGERING INC	0	2	2
DEEP FORD MINING COMPANY INC.	0	4	4
EASTERN ASSOCIATED COAL LLC	1,042	1,334	2,376
GIBRALTAR COAL CORPORATION	28	0	28
HERITAGE COAL COMPANY, LLC	2,574	2,341	4,915
HIGHLAND MINING COMPANY	0	227	227
MARTINKA COAL COMPANY	22	103	125
MOUNTAIN VIEW COAL COMPANY, LLC	0	2	2
NUEAST MINING CORP	4	0	4
PINE RIDGE COAL COMPANY, LLC	1	257	258
RIVERS EDGE MINING, INC	0	87	87
SIMCO PEABODY CO	28	0	28
SQUAW CREEK COAL CO	43	119	162
STERLING SMOKELESS COAL CO	18	0	18
YANKEETOWN DOCK CORPORATION	2	5	7
Subtotal	3,801	4,549	8,350

Table 3 shows retirees currently being paid by Patriot who came from Arch Coal.

Table 3

Former Arch Companies	Coal Act	NBCWA	Total
AMHERST COAL CO	153	2	155
APOGEE COAL COMPANY, LLC	0	35	35
ARCH OF ALABAMA INC.- APOGEE	22	2	24
ARCH OF ILLINOIS INC.- APOGEE	170	345	515
ARCH OF KENTUCKY INC.- APOGEE	166	260	426
ARCH OF WV INC	97	247	344
ARCH ON THE GREEN INC.	17	6	23
BADGETT BROWN INC	34	4	38
CARTER COAL CORP	1	0	1
CUTLER MINING CO – APOGEE	6	0	6
DAKOTA, LLC	0	18	18
HOBET MINING & CONSTR CO INC	7	0	7
HOBET MINING, LLC	59	515	574
KING KNOB COAL CO INC	1	0	1
LANDMARK CORPORATION d/b/a DELTA TERMINALS, INC.	1	9	10
OLD HICKORY COAL CO	6	4	10
PIPESTONE CREEK COAL MINING CO	7	0	7
ROBIN RESOURCES, INC.	0	10	10
SHARPLES COAL CORPORATION	56	1	57
SOUTHWESTERN ILLINOIS COAL COR	7	1	8
SUGAR CREEK MINING CO	11	0	11
ZAPATA COAL CORP	3	0	3
Subtotal	824	1,459	2,283

Table 4 shows a summary of Patriot retirees by the company that employed them before the spin off.

Table 4

Company	Coal Act	NBCWA	Total
Former Peabody Subsidiaries	3,801	4,549	8,350
Former Arch Subsidiaries	824	1459	2283
Total	4,625	6,008	10,633

Over 90% of the retirees whose health care is currently being administered by Patriot never worked a day for Patriot Coal; they retired while employed by subsidiaries of Peabody and Arch.

Under the Coal Act, Peabody and Arch are jointly and severally liable for Patriot's Coal Act retirees that worked for them. If Patriot ceases to provide benefits to its Coal Act-eligible retirees, Peabody and Arch will be liable under the Coal Act to provide those benefits.

In addition, in its spin-off of Patriot Peabody agreed to retain liability for certain non-Coal Act retirees. We estimate that Peabody is currently paying Patriot to administer benefits for about 2,150 retirees who retired from Peabody prior to the spin off. The remainder of Patriot's nearly 4,000 retirees have no such protection.

Medicare Eligibility

Table 5 shows the distribution of Patriot retirees by age. About 43% of the non-Coal Act retirees that are not paid for by Peabody are age-eligible for Medicare. Significant numbers of the population under age 65 are likely eligible for Medicare by virtue of eligibility for Social Security Disability Insurance (SSDI). Based upon the experience of the industry-wide plans, it is estimated that 59% of the Patriot non-Coal Act group is covered by Medicare.

About 68% of the non-Coal Act retirees that Peabody retained are age 65 or older. Using the same methodology, the Medicare-eligible population is estimated to be about 77%.

Among the Coal Act population, nearly 90% are age-eligible for Medicare.

Table 5

	Coal Act		Non-Coal Act		Non-Coal Act	
	Count	Percent	Count	Percent	Count	Percent
Age						
> 80	2,216	48.0%	9	0.4%	10	0.3%
75-80	1,147	24.9%	129	6.0%	151	3.9%
70-75	448	9.7%	596	27.8%	559	14.3%
65-70	330	7.2%	716	33.4%	938	24.1%
60-65	272	5.9%	461	21.5%	1,246	32.0%
55-60	149	3.2%	186	8.7%	865	22.2%
< 55	52	1.1%	45	2.1%	130	3.3%
Total	4,614	100.0%	2,142	100.0%	3,899	100.0%

UMWA 1993 Benefit Plan

Patriot also contributes to the UMWA 1993 Benefit Plan, which provides retiree health benefits to retired "orphan" miners whose companies have gone out of business. The plan is funded by coal operators that are signatory to the NBCWA; the current contribution rate is \$1.10 per hour worked.

If Patriot liquidates or otherwise terminates its obligation to provide retiree health care, about 3,900 of Patriot's current retiree population could become eligible for benefits from the 1993 Plan. In addition, about half of Patriot's 2,000 active UMWA workers have earned vested rights to lifetime health care.² Therefore, the potential number of current and future Patriot retirees that may become eligible for benefits from the 1993 Plan is about 5,000 retirees. Including dependents, this means that the 1993 Plan could become responsible for providing benefits to an additional 9,000-10,000 covered persons.

The 1993 benefit Plan is funded by a fixed employer contribution, meaning that the signatory employers are bound solely to the contribution rate established in the 2011 NBCWA.³ The addition of more than 9,000 new beneficiaries would make the plan insolvent overnight. This means that Patriot's bankruptcy not only threatens the health benefits of its own beneficiaries; it potentially could also affect the benefits of about 2,700 other beneficiaries of the 1993 Plan.

UMWA 1974 Pension Plan

Patriot is the second largest contributor to the UMWA 1974 Pension Plan. Based on 2011 hours and the current contribution rate of \$5.50 per hour, Patriot contributes about \$23 million per year to the 1974 Plan. The 1974 Plan is currently certified as being in seriously endangered status. Patriot withdrawal from the plan would hasten the financial decline of the 1974 Pension Plan, which provides pension benefits to approximately 95,000 retired miners and surviving spouses. Should Patriot withdraw from the 1974 Plan, it is estimated that its withdrawal liability would be at least \$830 million.

Historically, UMWA miners have put a high value on health care because of the severe toll that coal mining takes on a body over a 30-year mining career. As a consequence UMWA members have traded lower wages and pension benefits in their collective bargaining agreements to maintain good health care benefits. For example, the average pension paid by the UMWA 1974 Pension Plan is \$581 a month. By

² An active miner vests in a right to lifetime retiree health benefits when he accrues 20 years of service or, if he is 55 years or older, has 10 or more years of service. Other than miners receiving a disability pension, the earliest age at which a miner can receive retiree health benefits is age 55.

³ Although the 2006 amendments to the Coal Act included federal financing for some beneficiaries of the 1993 Plan, that financing is only provided to beneficiaries covered as of December 31, 2006. The remaining beneficiaries receive only the benefits that can be provided from the employers' contractual contributions.

comparison, a 2011 survey of over 100 multi-employer pension plans showed that the median monthly pension benefit was \$908, or about 56% higher than the average 1974 Plan benefit.

UMWA Retiree Bonus Trust

Because the regular pension benefits payable by the 1974 Pension Plan are so low, retirees have come to rely on periodic bonuses that have been provided by the Plan. As the result of the 1974 Pension Plan's financial difficulties, it is no longer possible to provide these bonuses. To address this hardship, Patriot and other industry employers signatory to the 2011 NBCWA agreed to contribute \$1.50 per hour to the UMWA Retiree Bonus Account Trust. This Trust will pay three one-time annual lump sum bonuses targeted at \$580 and \$455 to pensioners and surviving spouses in the 1974 Pension Plan over the course of the next five years. Because the Trust is not a qualified plan, however, its tax treatment is less favorable than it would be if the benefits could be paid from the 1974 Pension Plan. The plan is unlikely to be able to afford the targeted bonus amounts if Patriot liquidates or is relieved of its obligation to contribute.

UMWA 1992 Benefit Plan

The UMWA 1992 Benefit Plan provides retiree health benefits to orphan miners who are covered by the Coal Act and whose companies who have gone out of business or ceased providing benefits required under the Coal Act. The 1992 Benefit Plan had a population of 7,695 as of May 31, 2012. Patriot has a bond posted with the 1992 Benefit Plan in the amount of \$54.4 million to secure its Coal Act obligations. Patriot also pays the 1992 Plan \$32,676 per month in per-beneficiary premiums.

UMWA Combined Benefit Fund

The UMWA Combined Benefit Fund provides benefits to retired miners and their dependents who were receiving benefits from the UMWA 1950 Benefit Plan and the UMWA 1974 Benefit Plan at the time the Coal Act was enacted in 1992. The CBF provided benefits to 17,340 beneficiaries as of May 31, 2012. Patriot currently pays the CBF about \$5.1 million annually. Of this amount Peabody is jointly and severally liable for \$3.8 million and Arch Coal is jointly and severally liable for \$1.3 million.

Patriot Coal Bankruptcy—A Call for Congressional Action

Patriot Coal filed for Chapter 11 bankruptcy in the Southern District of New York on July 9, 2012. Patriot created two subsidiaries in New York several weeks before the filing solely for the purposes of creating venue in New York.¹

Patriot Coal mines and sells bituminous in West Virginia and Kentucky. It employs about 4,000 coal miners, and the majority of the hourly workers are represented by the United Mine Workers of America (UMWA).

Patriot's bankruptcy threatens the jobs of about 2,000 active UMWA coal miners and the retiree health benefits of thousands of retired miners and their dependents and surviving spouses. It also puts at greater risk the UMWA 1993 Benefit Plan and the UMWA 1974 Pension Plan. Patriot's bankruptcy highlights the need for Congressional action to keep the promise to retired coal miners.

Patriot Coal was spun off from Peabody Energy in 2007. Patriot comprised all of Peabody's UMWA-signatory operations in the eastern United States. In 2008, Patriot acquired Magnum Coal, which had been spun off from Arch Coal in 2005. Similar to the Peabody-Patriot transaction, Arch spun off all its UMWA-represented operations into Magnum.

This bankruptcy highlights the need to enact the CARE Act and to modify the provisions of the 2006 Coal Act amendments to provide coverage for retirees in the 1993 Benefit Plan.

A Promise to Keep

On May 29, 1946 the United States government and the UMWA signed an historic agreement, known as the Krug-Lewis agreement that established the UMWA Health and Retirement Funds. After several years of demanding a health and retirement fund in negotiations with the coal operators, UMWA miners walked out of the mines. Fearing damage to the post-World War II economy, President Truman signed an executive order seizing all the nation's bituminous coal mines and ordered the Secretary of the Interior, Julius Krug, to negotiate an agreement with the UMWA

¹ The United Mine Workers of America (UMWA) filed a motion with the Bankruptcy Court to change the venue to the Southern District of West Virginia, arguing that most of Patriot's employees, retirees and other creditors were in or near West Virginia and that it was the most appropriate venue. Other parties who joined the UMWA in seeking a change of venue were the United States Bankruptcy Trustee, the Attorney General of West Virginia, the Commonwealth of Kentucky Energy and Environmental Cabinet, a group of surety companies holding Patriot environmental bonds and American Electric Power. A hearing was held on the change of venue motion on September 11-12, 2012 and final briefs are due October 5, 2012.

president John L. Lewis. After several weeks of negotiations the Krug-Lewis agreement was signed in the White House with President Truman presiding.



Figure 1--President Truman watches Secretary of the Interior Julius Krug and UMWA President John L. Lewis sign the Krug-Lewis Agreement in the Oval Office.

The Krug-Lewis agreement established the UMWA Health and Retirement Funds and made this promise to America's coal miners—that in return for their work supplying energy to the nation, upon retirement they would have a pension and health care for life.

The Coal Act

The Coal Act was enacted by Congress in 1992 in the wake of the UMWA strike against Pittston Coal. Pittston had terminated retiree health benefits to its retirees and took the position in negotiations that it would no longer participate in the multi-employer UMWA Health and Retirement Funds. Pittston essentially sought to rid itself of its obligations to retirees and transfer their cost to its coal industry competitors who remained contractually obligated to the UMWA Health and Retirement Funds. Of course, if Pittston had been successful every other coal industry employer would follow suit: thus Pittston's actions threatened the benefits of not only its own retirees but also retirees throughout the coal industry.

After a 10-month strike, U.S. Secretary of Labor Elizabeth Dole appointed a federal commission to examine the provision of health care in the coal industry and to

recommend legislative changes to Congress. In its Final Report, the Coal Commission declared:

Retired coal miners have legitimate expectations of health care benefits for life; that was the promise they received during their working lives and that is how they planned their retirement years. That commitment should be honored.²

To fulfill this promise, the Coal Commission³ recommended that:

- Congress should impose a statutory obligation to contribute to the plans on current and former signatories to the national Bituminous Coal Wage Agreement
- Mechanisms should be enacted to prevent future dumping of retiree health obligations
- Congress should utilize excess pension assets to reduce current health care deficits

Members of Congress from both parties took up the Coal Commission's recommendations and crafted what would become the Coal Act, which was enacted in 1992. In a bill that was originally sponsored by Senator John D. Rockefeller, Congress mandated that all employers maintain the benefit plan that was in place for all retirees who were covered by the Coal Act (generally those miners eligible for health care who retired prior to October 1, 1994). The new law also created two statutory "orphan" retiree benefit plans, the UMWA Combined Benefit Fund (CBF) and the UMWA 1992 Benefit Plan (1992 Plan). The CBF included all the retirees who were receiving benefits from the former UMWA 1950 and 1974 Benefit Plans. The 1992 Plan was established to provide benefits to retired miners covered by the Coal Act whose employers went out of business and ceased providing benefits. To help fund these health care obligations, Congress directed the transfer of \$210 million from the coal miners' pension trust, the UMWA 1950 Pension Plan.⁴

2006 Coal Act Amendments

In 2004, Horizon Natural Resources, a large Appalachia coal company, entered Chapter 11 bankruptcy proceedings. Horizon employed about 850 UMWA miners and provided retiree health benefits to nearly 2,000 retired miners. At the end of its bankruptcy, Horizon terminated its retiree health benefit plans and sold off its assets.

Pursuant to the Coal Act, the UMWA 1992 Benefit Plan enrolled Horizon's Coal Act retirees. Additionally, the collectively-bargained UMWA 1993 Benefit Plan enrolled

² *Coal Commission Report: A Report to the Secretary of Labor and the American People*, November 1990, Washington, D.C.

³ Among the Coal Commission members who supported the final recommendations was Robert H. Quenon, President and Chief Executive Officer of Peabody Coal Company.

⁴ In 2006, the UMWA 1950 Pension plan was merged into the UMWA 1974 Pension Plan.

Horizon's non-Coal Act retirees. Today the 1993 Benefit Plan provides health benefits to about 1,950 retired miners from the Horizon bankruptcy (nearly 3,600 covered individuals, including dependents).

The large inflow of orphan retirees in the 1992 Plan⁵ and the 1993 Plan raised serious concerns about the continuing viability of those plans and Congress again stepped in to address the situation. The 2006 Coal Act amendments built on the framework of the original Coal Act and provided new financing. In addition to covering the costs of all orphans in the CBI⁶ and the 1992 Plan, the 2006 amendments included the 1993 Plan in the Coal Act financing arrangements.⁶ The 2006 amendments also expanded the federal financing sources: in addition to interest earned on the Abandoned Mine Lands Fund (AML Fund) the three health plans were given access to a permanent appropriation of up to \$490 million from the U.S. Treasury.

The CARE Act

The UMWA 1974 Pension Plan provides pension benefits to approximately 95,000 retired coal miners and surviving spouses. The 1974 Pension Plan was over-funded in the 1990s and, by 2007 was on the road to recovering from the post-9/11 economic downturn. The Plan's actuary had certified that the Plan was about 93% funded and was on its way to full funding in the coming years. Then, the 2008-2009 financial crisis hit and dealt a severe blow to the 1974 Pension Plan. This occurred at the worst possible time because the Plan was reaching its period of peak pension payouts as the coal industry's work force aged. Assets of the Plan dropped from \$6.7 billion in July 2007 to \$ 4.2 billion in July 2012. As a result, the 1974 Plan is projected to become insolvent and run out of money within the next 12 years. These problems are further exacerbated by public policy decisions affecting the coal industry—from the Clean Air Act of the 1970s and the amendments in the 1990s to recent administrative action including the Cross-State Air pollution standards, the Mercury and Air Toxics standards, and the recent anti-greenhouse gases regulations affecting the construction of future coal-fired power plants. All of these changes have led to, and will continue to accelerate, the reductions in the contribution base.

Given the large payouts from the 1974 Plan⁷ and the declining employment in the industry, it would be nearly impossible for the Plan to earn its way out of its financial difficulties or raise contributions sufficiently to accomplish that goal. Much like the UMWA health benefit plans, the 1974 Pension Plan needs help from Congress.

⁵ In addition to Horizon, the 1992 Plan had taken in a significant number of orphan retirees from LTV Steel, National Steel and Bethlehem Steel.

⁶ The federal financing for 1993 Plan beneficiaries was limited to those retirees who were enrolled in the plan as of December 31, 2006. Benefits for retirees enrolled after 12/31/2006 are paid for by collectively bargained employer contributions.

⁷ While the annual payouts from the 1974 Pension Plan are cumulatively large, the pension benefits paid to individuals are relatively moderate. For example, the average benefit paid by the 1974 Plan is \$581 per month. In comparison, a 2011 survey of over 100 multi-employer pension plans showed that the median monthly pension benefit was \$908, or about 56% higher than the average 1974 Plan benefit.

In 2010, Congressman Nick Rahall introduced the CARE Act (H.R. 1635) in the U.S. House of Representatives and Senator John D. Rockefeller introduced a companion bill (S. 621) in the U.S. Senate, a bill that would authorize the 1974 Pension Plan to participate in the same financing mechanism established in the 2006 Coal Act amendments. Under the CARE Act, the 1974 Plan would have access to any amounts remaining from the \$490 million permanent appropriation.

The UMWA is also proposing that the 2006 financing mechanism also be made available to cover retirees who lose their health benefit coverage as a result of the Patriot bankruptcy.

A Call to Congressional Action

Congress enacted the original Coal Act in response to the crisis that arose during the Pittston strike. The Coal Commission and Congress recognized that if Pittston could successfully walk away from its retirees, then thousands of retirees from other companies would also be at risk. Congress took steps to ensure that coal operators would be required to maintain health benefit plans for their own retirees and that fair financing mechanisms were established to take care of orphan retirees.

Congress also recognized in the 2006 Coal Act amendments that bankruptcies at LTV, Bethlehem Steel and Horizon Natural Resources had strained the financial mechanisms established to take care of orphan miners and Congress took action to provide additional resources to “keep the promise” to retired miners.

The Patriot bankruptcy presents the same threat to retirees throughout the coal industry that Pittston did more than 20 years ago. Although the UMWA will do what it can to try to hold Peabody and Arch accountable, their retirees remain at serious risk. The only meaningful solution is for Congress to step in—just as they did in the wake of the Pittston strike and after the Horizon bankruptcy—to ensure that retired miners and their survivors are not denied the benefits the miners worked a lifetime to achieve.

Who Should Be Responsible for Patriot Coal's Retiree Health Care Obligations?

Patriot provides retiree health benefits to 10,633 retired mine workers, surviving spouses and their dependents.

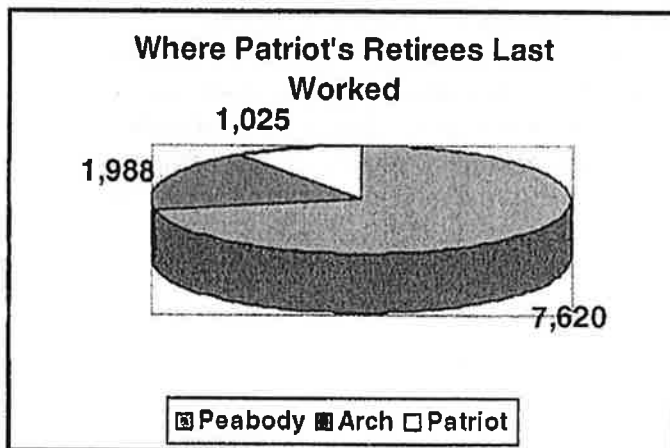
Of the 10,633 families receiving retiree health benefits from Patriot, 4,625 families (43.5% of the total) receive benefits pursuant to the Coal Act and 6,008 families (56.5%) receive benefits pursuant to the NBCWA.

8,350 of these eligible retirees (78.5%) last worked for subsidiaries of Peabody Energy that were spun off into Patriot Coal and 2,283 (21.5%) of them worked for subsidiaries of Arch Coal that were spun off into Magnum Coal, which was acquired by Patriot.

Of the 8,350 retirees who last worked for a Peabody subsidiary, 7,620 retirees (91.3%) never worked a day for Patriot Coal.

Of the 2,283 retirees who last worked for Arch subsidiaries, 2,118 retirees (92.8%) never worked a day for Patriot. Furthermore, of these 2,283 retirees, 1,988 retirees (87.1%) never worked a day for Magnum.

In total, of the 10,633 retirees receiving benefits from Patriot 9,608 of them (90.4%) never worked a day for either Magnum or Patriot.



Clearly, the primary motivation behind the Arch/Magnum transaction and the Peabody/Patriot spin off was to avoid the liabilities to its former employees. Shortly after the Patriot spin off, Peabody CEO Greg Boyce told investment analysts "We're reducing our legacy liabilities roughly \$1 billion, and reducing our expense and cash spending in the neighborhood of \$100 million as well." Peabody CFO Rick Navarre told the same group "Our retiree health care liability and related expense will be reduced by 40% ... In total, our legacy liabilities, expenses and cash flows will be nearly cut in half."

In 2011, Peabody Energy reported net income of \$957.5 million and is the Nation's largest coal producer. Arch Coal reported net income of \$141.7 million in 2011.

Patriot Coal reported a net loss of \$139.1 million for 2011.

In the three-year period after Patriot acquired Magnum Coal (2009-2011), Peabody made nearly \$2.2 billion in net profit and Arch posted profits of \$343 million. The Peabody/Arch profits in just three years were enough to pay for all the future retiree health costs of their former employees nearly twice over!

Over 90% of the retirees for whom Patriot provides health care benefits never worked a day for Patriot; they worked and retired from companies that were owned by Peabody and Arch, and they were promised lifetime health care.

Peabody and Arch have the financial means to pay for the retirees that worked for them. Peabody and Arch should have to live up to the promises.